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8
9 **BEFORE THE**
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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12 HEARING IN THE MATTER OF
13 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
14 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF DIVERSION
15 FOR CALIFORNIA WATERFIX

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**PROTESTANT RESTORE THE DELTA'S
JOINDER IN SAN JOAQUIN COUNTY ET
AL.'S MOTION FOR RECONSIDERATION
OF THE MAY 21, 2018 RULING STRIKING
PORTIONS OF THE PART 2 TESTIMONY
OF MARC DEL PIERO, CSPA-208-
CORRECTED, AND RELATED ORAL
TESTIMONY**

1 Restore the Delta (“RTD”) joins in the Motion for Reconsideration of the Hearing Officers’
2 Ruling (“May 21 Ruling”) granting the Department of Water Resources’ (“DWR”) motion to strike
3 portions of Marc Del Piero’s Part 2 Testimony, CSPA-208-Corrected, and Related Oral Testimony,
4 filed on May 31, 2018 by San Joaquin County, San Joaquin County Flood Control and Water
5 Conservation District, Mokelumne River Water and Power Authority, Local Agencies of the North
6 Delta, California Sportfishing Protection Alliance, California Water Impact Network, and
7 AquAlliance (“San Joaquin County *et al.*”).

8 As RTD previously argued in its April 30, 2018 joinder in San Joaquin County *et al.*’s
9 opposition to DWR’s objections and motion to strike, a water availability analysis is essential to the
10 State Water Resources Control Board’s (“SWRCB”) fulfillment of its public trust duties and the
11 legislated mandate to produce appropriate Delta flow criteria. Furthermore, Article X, Section 2 of
12 the California Constitution requires the SWRCB to assure reasonable use of water as it establishes
13 the facts of this Petition case. Under this constitutional requirement, the SWRCB must assure
14 reasonable use of water by determining water available for reasonable use and by determining
15 whether the proposed Petition Facilities are a reasonable method of diversion. A water availability
16 analysis is essential to these determinations and the SWRCB’s fulfillment of its constitutional duty
17 under Article X, Section 2.

18 Finally, because Mr. Del Piero’s testimony does not relate to CEQA compliance or whether
19 the Joint Petition requests a new water right, it falls within the scope of the Part 2 hearing.

20 Accordingly, we urge the SWRCB to reconsider its ruling on the motion to strike portions of
21 Mr. Del Piero’s important Part 2 testimony.

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Respectfully submitted,



Dated: June 4, 2018

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